

**MINUTES
TOWN OF INDIAN RIVER SHORES
REGULAR TOWN COUNCIL MEETING
Thursday, August 25, 2005**

PRESENT: Thomas W. Cadden, Mayor
David J. Becker, Vice Mayor
William H. Ahrens
Frances F. Atchison
E. William Kenyon

STAFF PRESENT: Chester Clem, Esq., Town Attorney
Robert J. Bradshaw, Town Manager
Barbara Readdy, Outgoing Town Clerk
Laura Aldrich, Incoming Town Clerk
Richard Jefferson, Building Official
Hugh Cox, Director, Public Safety

The regular Town Council meeting was called to order by Mayor Cadden on August 25, 2005 at 3:30 p.m.

Pledge of Allegiance

Invocation - Councilman Becker

Roll Call

Mayor Cadden deferred the roll call to allow Mr. Bradshaw to introduce the new Town Clerk, Laura Aldrich. Mr. Bradshaw welcomed her, briefly giving her background and qualifications. Mrs. Aldrich thanked them for the welcome, then called the roll at the Mayor's request.

Consent Agenda:

- a. Approval of the Regular Town Council Meeting Minutes of July 28, 2005
- b. Approval of the Budget Workshop Meeting Minutes of July 26, 2005
- c. Accepting and Filing of the Pension Trustee Board Meeting Minutes of July 27, 2005
- d. Accepting and Filing of Planning, Zoning and Variance Board meeting minutes of July 11, 2005
- e. Approval of invoice for legal fees of Chester Clem, Town Attorney
- f. Approval of invoice for legal fees of Ronald Cohen, Town Pension Attorney
- g. Approval of invoices for scanning & Indexing Building Permit Files

A **MOTION** was made by Mr. Kenyon, supported by Mr. Becker, **to accept the Consent Agenda** as presented. Mr. Kenyon asked to make a point about Item g, which he understood cost the Town about \$40,000. He thought that this type of cost should have been brought before the Council prior to proceeding, as the original estimate was closer to \$2,000. There being no further discussion, Mayor Cadden called for the vote. **The motion carried with unanimous voice vote.**

Mayor's Items

- a. Proclamation for Town Clerk Barbara Readdy's Retirement (Presentation by 2nd VP of Florida Association of City Clerks, Tammy Vock)

Mayor Cadden introduced and welcomed Tammy Vock, City Clerk for Vero Beach and 2nd Vice President of the Florida Association of City Clerks. Ms. Vock thanked him and addressed the Council, stating that the Florida Association of City Clerks (FACC) had prepared a Proclamation in Barbara Readdy's honor. She then read the Proclamation, and presented the framed document to Ms. Readdy with warm wishes. Mayor Cadden opened the floor for parting comments to Ms. Readdy, with former Vice Mayor, John Klein, Councilman Kenyon, Councilman Becker, Councilman Ahrens, and Councilmember Atchison all remarking on her wonderful personality, professionalism, and representation of the Town, and thanked her. Mayor Cadden then presented Ms. Readdy with a card containing a token of their appreciation. Barbara thanked them all. Ms. Vock departed.

- b. Introduction of New Town Clerk, Laura Aldrich (done at the beginning of the meeting)

Planning, Zoning and Variance Board:

- a. Approval of variance to bring residence at 191 Silver Moss Drive into code compliance. Mr. Mitchell said that they approved the louvered fence variance at Baytree, and Mr. Jefferson approved the other variance request as it did not require Council's approval. **A MOTION** was made by Councilman Becker and supported by Councilmember Atchison **to approve the variance at 191 Silver Moss Drive**. The motion carried with unanimous approval.

Town Attorney:

Mayor Cadden asked the Attorney for a variance from the agenda to discuss the Budget Meeting that was planned for September 8th, noting that it had come to light this afternoon that there would not be a quorum present. After being discussed at length and after checking with the Department of Revenue, the Council agreed that it still would be held on September 8th, with a continuation on the only date available, Saturday September 17th. The Council assured the Mayor that there would be a quorum.

- a. Second Reading and Public Hearing – Ordinance No. 480 – amending Chapter 167 of the Land Development Code to conform to new State Administrative rules and the St. Johns River Water Management District Wetland Protection Standards

Mr. Clem said that this amendment, prepared by Les Solin, revises our wetlands code to be in compliance with the State mandated requirements that ensure uniformity with the St. John Water Management District (SJWMD). Mr. Clem then read it by title as follows:

ORDINANCE NO. 480

AN ORDINANCE AMENDING CHAPTER 167 OF THE LAND DEVELOPMENT CODE OF THE TOWN OF INDIAN RIVER SHORES TO CONFORM TO NEW STATE ADMINISTRATIVE RULES AND THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT WETLAND PROTECTION STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Mr. Clem concluded that it had been published and is now ready for approval. **A MOTION** was made by Councilman Kenyon and supported by Councilman Becker **to**

approve the ordinance as read, and was unanimously supported by the remaining Council members.

- b. Second Reading and Public Hearing – Ordinance No. 481 – amending the Land Development Code to incorporate the Florida Department of Environmental Protection best management practices and to ensure the national pollutant discharge elimination system requirements are included

Mr. Clem continued that the second ordinance also was prepared by Mr. Solin, who was on his way to the meeting but was delayed by weather. This has been through the Planning Board, public hearings, and the Council previously and thoroughly discussed the ordinance. It has to do with the management of our surface water, and also puts us into conformity with the SJWMD. He read the ordinance by title as follows:

ORDINANCE NO. 481

AN ORDINANCE TO AMEND THE LAND DEVELOPMENT CODE OF THE TOWN OF INDIAN RIVER SHORES TO INCORPORATE THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION BEST MANAGEMENT PRACTICES AND TO ENSURE THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM REQUIREMENTS ARE INCLUDED; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Councilman Becker made a **MOTION to approve the ordinance as read in title by the Town Attorney**, and was seconded by Councilmember Atchison. Councilman Kenyon asked about capital expenditures, and Mr. Bradshaw explained that this was mainly concerning the reporting requirements. There being no further discussion, the vote was called and the motion was unanimously approved.

- c. Discussion on proposed resolution for pre-storm construction site preparation

Mr. Clem brought a draft resolution to help control debris that is at construction sites in the event that a hurricane approaches. Liability could be an issue if the Town is too strict in wording on an ordinance, so a resolution was drafted instead, which he read in its entirety. Afterwards, Councilmen Kenyon, Becker and Ahrens discussed broadness and the intent of the resolution as well as possibly conflicting jurisdiction with the homeowner associations, to which the Attorney replied that we are responsible for enforcing our guidelines and the Town Building Code. Mayor Cadden and the Council, after considerable discussion, agreed with Mr. Clem that the intent of the resolution is fine. A **MOTION** was made by Councilman Becker and seconded by Councilman Kenyon **to approve the resolution as discussed**, which was unanimously supported by the Town Council.

Town Manager

- a. EMS Transport Fees - Brian Burkeen, Director of Indian River County EMS and Pro Se – Mauricio Chavez

Mr. Bradshaw said that this was part of the continuing discussion on charging a fee for EMS transport as requested by Council at the last meeting. Chief Cox had contacted Brian Burkeen as well as Mr. Chavez of Miami, who was unable to make the meeting due to Hurricane Katrina's impact on their area. Mr. Burkeen went over Indian River County EMS billing procedures, which are for transporting every person who goes in an ambulance to an emergency room. They are \$290 for basic life support transport with no IV's, drugs, EKG or other services, plus \$7 per mile. If there is an advanced life support, with services as mentioned above, it is \$350 plus \$7 per mile. Based on the latest Pro Se Technologies statement for the last 12 months, the average number of transported patients per month is 855. Mr. Burkeen continued that this has been billed at \$2.788 million, of which \$2.714 million has been collected, or an 83.1% collection rate. Pro Se sends a statement billing Medicare and insurance simultaneously, and by Medicare rules they have to make 3 additional attempts to collect any outstanding balances. IRC County Commissioners determined years ago not to proceed any further beyond those four attempts by mail in order to avoid creating hardship for residents.

Councilman Kenyon asked if they charged anything beyond what Medicare will allow, and Mr. Burkeen said that Medicare's maximum allowable rate is \$317. Everybody, Mr. Burkeen clarified, is billed some amount that is not covered, but supplemental insurance (especially automobile insurance from automobile accidents) usually covers the balance. There is 24% of the billing that is bad debt, usually due to uninsured or self-employed individuals. After six to eight months, the account is no longer pursued, and it goes to the bad debt file.

The software that is used for reporting transports is the same that is used by the Public Safety Department currently, and it has the ability to create a billing file. Mr. Burkeen continued that they use this technology to send electronically through a virtual private network, and it is very quick and safe. Monies are handled through a lock box and are never touched by any hands. The County went out to bid four years ago for this billing provider, and out of eight (8) responses, Pro Se was mid-range in fees. With the other fees ranging from 5.1% to 12.8%, Pro Se charges 6.7% of net collections. They were chosen because they are on the stock market, handle physician billing, and are well established track record nationally. They have a compliance section to ensure adherence to Medicare and HIPAA laws.

Councilman Kenyon asked if the size of the town affected the amount of the fee charged, and Mr. Burkeen said that since this agency was selected through the bid process, they have allowed other agencies to piggy-back on the County's contract rate.

Councilman Becker asked how the data was harvested, and how intrusive it was. The basic information is gathered in the software already, Mr. Burkeen said. Mayor Cadden asked when and how the Medicare or supplemental insurance information was obtained. Mr. Burkeen said that they do not collect that information, as they do not need it. Pro Se is networked with the hospitals. Granting permission to obtain billing information was discussed by Councilman Becker, with Mr. Burkeen stating that the transported person signs permission to bill or not bill Medicare. The HIPAA act also gives the right to ask for billing information for the provider.

Councilmember Atchison asked Mr. Burkeen what type of complaints they receive, and he said that he averages one call per week, usually a hardship claim but occasionally an irate

person will call. They claim that they pay taxes for this, and it is explained that it is a user fee not covered by taxes.

Councilman Ahrens asked how a critically ill person would sign, and it was explained that there is a box that the attendant can check that the person is unable to sign. Councilman Becker asked Mr. Burkeen if he received complaints as an elected official in Sebastian on this issue, and he said that he does, but that he always presents it as a user fee, which is wholeheartedly supported by the City.

Councilmember Atchison said that this action is intended to get funding for emergency vehicles without overtaxing the residents, as these funds are already available from Medicare or most private insurances. She wanted it to be perfectly clear that the intention was not to put any undue duress on any person in the Town of Indian River Shores being transported.

Mr. Burkeen spoke more about the IRC EMS budget of \$8.1 million, so almost \$3 million from collection is a large portion of it. The large capital expenditure purchases are easily funded by this. Councilmember Atchison continued that although the Town is solvent, there are funds that need to be replenished. There is a strong outlook for more than usual hurricanes forecasted over the next ten years, which forces the issue even more.

Councilmember Kenyon asked for the statistic on what percentage of the 83% billed that is collected is Medicare, and Mr. Burkeen stated that it is 59%, with an additional 20% self-pay. The Council discussed that the Town would probably have a higher percentage of Medicare than the County has. Mr. Burkeen added that another option to consider would be to bill only those who are not residents, and Councilmember Atchison said that according to the data that was presented, that number would be 15%. There being no further questions for Mr. Burkeen, the Mayor and Councilmember Atchison thanked him for coming and for the excellent presentation. He returned their thanks and departed.

Councilmember Atchison said that she was aware that there were questions and concerns about this issue in the community, and after inquiring of 20, only three were vocally against it. After explaining that the monies were already in Medicare and that private insurance would pick up the remainder, they were all comfortable with the concept. Councilman Kenyon spoke about the lack of enforcement of payment, understanding the hardship cases. Mayor Cadden reminded them that we transport everyone, including service staff. Councilmember Atchison remarked about setting aside funds for emergency vehicle replacement, and Councilman Ahrens stated that he was against the principle for doing so. This is a service to the residents, and one, he added, that they expect.

Mayor Cadden asked Chief Cox if he anticipated any problems in duplicating what the County does, and Chief said that they are required to become HIPAA compliant, which is just a matter of using the County's software that they have offered. Whether there is any interest is what the Council needs to determine at this point, Councilman Becker pointed out. Councilman Kenyon said that we have to have assurance that it works, and Mr. Bradshaw pointed out that the County, according to Mr. Burkeen, is experiencing significant success with the program. Councilman Becker and Kenyon agreed with the Town Manager, saying that providing sufficient education on the matter to the residents is needed. It should not be a divisive issue to the Council or community, Councilman Becker added, saying it may be irresponsible not to recover these monies for good use.

Gerry Weick, 40 Southampton Terrace, asked if there was any reason that we could not just accept what the insurance covers. Councilman Becker said that by law, Medicare must bill for the 20% that is not covered, which is why three additional letters are required.

Bob Schoen, Pebble Bay, said that he thinks that it is totally contrary to how we have run this Town. He concluded that he didn't think we should do it, calling it penny-wise and pound-foolish.

Jack Mitchell, 220 Sandpiper Point, said that we provide fire protection and response and police response, which protect our property. The ambulance service protects our lives. Mr. Mitchell said that we have a number of people in our town who are at the poverty level, and some who are just making it. He believes that this is a service that is paid for in our heavy taxes, and not a user service, and has heard agreement from the majority of people he has spoken with. He asked that we not act in haste, as the majority of residents are not here right now. Mr. Mitchell's opinion is not that we just get \$51,000 back, there must be other costs involved. Also, if there is obvious abuse (a shortcut to the emergency room for a non-emergency situation), some action should be taken.

Councilman Kenyon asked Chief Cox how many runs a month the IRS EMS makes, and Chief replied that in 2004, there were 400 dispatched calls, with 287 patients transported, which is about 24 per month. Councilman Kenyon said that this is how many bills would be going out each month, with the potential of that many unhappy taxpayers.

Councilmember Atchison addressed Mr. Mitchell's concern with timing, adding that this is not an urgent matter. She was concerned that in order to get it into the budget, it needs to be considered prior to July. Councilmember Atchison also addressed Mr. Schoen's concern, stating that she wanted to be on record as never wanting to see any service withheld from any resident. Mayor Cadden closed the discussion to the public at this point.

Councilman Ahrens said that he agreed that it was very good to bring it up to the entire community, and to let it ride for now. Mayor Cadden agreed. We will wait until we hear from other service providers. There should be no stress between the EMS staff and the people they are transporting. The consensus was for Robert to get more information.

Councilman Becker addressed Mr. Mitchell's and Mr. Schoen's comments, stating that the additional billing would in no way change the service that has been offered. Mr. Schoen recounted an incident his neighbor experienced relating to cost.

- b. Change in Time of September 22, 2005 Regular Town Council Meeting (10 a.m. rather than 3:30 p.m.) (*Mayor Cadden announced that this item has been removed from the agenda*)

Call to Council:

(Mr. Kenyon's committee did not meet)

Metropolitan Planning Organization - Dr. Becker reported that the MPO met at length, discussing the adequacy of the North-South and East-West streets, and the consequences if no improvements were done between now and 2030. No conclusions were reached.

Parks and Recreation – Mr. Ahrens reported that they met on August 4th and announced that there will be two FRDAP (Florida Recreational Development Assistance Program) grants submitted, one for the football field lighting at Gifford Park and one for Oslo boat ramp. They have been pending for two years, and finally have funds now to apply.

Beach and Shores Restoration – Mr. Ahrens reported that this was a very worthwhile meeting. It took place from 6-8 p.m. and included a post-storm dune rebuilding workshop, which was presented by Brevard County. The rest of the meeting addressed working with FEMA.

Mr. Kenyon asked him about the John's Island plans for beach renourishment funds that were requested from the County. Mr. Ahrens said that this was a private request from the Johns Island Property Owners Association (JIPOA), and neither the Town nor the committee was informed. Mr. Bradshaw said that Mrs. Atchison had brought a letter by yesterday from the Facilities Committee, who requested \$2 million in beach renourishment from the County. We have been told that the County will fund that request at \$1 million, he continued, and thanked Mrs. Atchison for bringing it to the Town's attention. There was some discussion, with Councilman Kenyon wondering how the Town could get in on the County money for beaches, and Councilman Ahrens noting that we are the only beach that is known as a "natural beach" in this sector, and a natural beach is known to take care of itself. Sector 7 is where the other County funds will be used, but no one knows where JIPOA plans to use their allocation.

Land Acquisition Advisory Committee - Councilmember Atchison had no report.

Treasure Coast Regional Planning Council – Councilman Ahrens had no report.

Treasure Coast Council of Local Governments - Mayor Cadden had no report on this group as he was out of town.

Florida League of Cities Annual Conference – Mayor Cadden said that he had given the Council a short memo regarding his attendance at this 79th Annual Conference. He was reelected to the Board of Directors as one of the 50 mayors from around the state, and the Mayor added that it helps to be on that Board. There is a lot going on, and the Board Packet is being circulated among the Council for their enlightenment. There is one pending leadership role (he addressed Bill Kenyon) with respect to taxation, adding that we need to get behind it as a town. He had spoken with the Mayor of Sanibel Island about our circumstance of being less than 3% of the population of the County and providing 14-15% of the County revenue. Sanibel is less than 1% of their county's population and provides 10% of it's taxes. This is the avenue that we can address this issue. The next two Board meetings in September and November, Mayor Cadden continued, he will attend, and maybe then we will have something that we can lobby behind. He urged the Council to please read the resolutions and the booklets.

Charter counties were briefly discussed (for example, Dade or Duvall). It is very complicated, Mr. Clem said, that the County becomes omnipotent to the municipalities. It is not a situation that the Mayor heard anything positive about from other mayors.

The meeting adjourned at 5:00 p.m.

Date Minutes Approved by Council:

September 22, 2005

Laura Aldrich, Town Clerk